

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1997

Heard at Montreal, Tuesday, 13 February 1990

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

CANADIAN BROTHERHOOD OF RAILWAY, TRANSPORT AND GENERAL WORKERS

DISPUTE:

The discharge of Mr. T.R. Butz, Hostler, Diesel Shop, Edmonton.

JOINT STATEMENT OF ISSUE:

On September 8, 1988, Mr. Butz left Company premises while on duty without advising any supervisor that he was doing so. Shortly thereafter, he was observed by supervisors of the Diesel Shop sitting in the Beer Parlour of the Dover Hotel in Edmonton with a co-worker with partially consumed glasses of beer on the table in front of them.

Following an investigation, Mr. Butz was discharged, effective September 28, 1988, for violation of UCOR Rule G and Rule 26(a) of Company Rules and Regulations and being away from his work area without consent or knowledge of his immediate supervisor.

The Brotherhood has contended that the discipline assessed was too severe and that the employee is not covered by UCOR Rule G, only Rule 26(a), and Mr. Butz should be returned to the service of the Company without any loss of earnings, seniority or benefits.

The Company disagrees.

FOR THE BROTHERHOOD:

(SGD) TOM MCGRATH
NATIONAL VICE-PRESIDENT

FOR THE COMPANY:

(SGD) W. W. WILSON
FOR ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

D. McMeekin	– Labour Relations Officer, Montreal
M. M. Boyle	– Manager, Labour Relations, Montreal
S. Grou	– Labour Relations Officer, Montreal
M. Becker	– Labour Relations Officer, Edmonton
D. LaHaie	– Technical Supervisor, Edmonton

And on behalf of the Brotherhood:

R. Storness-Bliss	– Regional Vice-President, Vancouver
H. Critchley	– Representative, Edmonton
B. W. Iwaschuk	– Witness
T. R. Butz	– Grievor

AWARD OF THE ARBITRATOR

The facts of the instant grievance are fully stated in **CROA 1998**. For the reasons there related I am satisfied that the Company has not discharged its burden of proof in respect of the allegations of the consumption of alcohol during the grievor's tour of duty on September 8, 1988. I am, however, satisfied that he absented himself from work without leave, and failed to return to the diesel shop when instructed to do so in circumstances which plainly aggravated the perception of the circumstances by his employer. For these reasons, as explained in the above-noted award, the grievance is allowed in part. The grievor shall be reinstated into his employment, without compensation or benefits and without loss of seniority.

February 14, 1990

(Sgd.) MICHEL G. PICHER
ARBITRATOR